IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16727 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

J.K.VYAS

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 16727 of 2004

MS HARSHAL N PANDYA for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

MS D S PANDIT AGP for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/03/2005

ORAL JUDGEMENT

1. The petitioner herein has challenged the order dated 03/05/2001 passed by the Deputy Collector (Eviction) and also the order dated 26/08/2004 passed by

the learned Addl. Sessions Judge, Gandhinagar, in Eviction Appeal No.30 of 2001, whereby the said appeal was rejected.

2.1 The petitioner being a Government servant was allotted Government quarters in Gandhinagar and had been residing there since 04/12/1973. On account of some administrative reasons, the petitioner was transferred to some other branch of the respondents' Office.

2.2 It is the case of the petitioner that on 29/02/2000 the petitioner vacated the said Government quarter, on account of the said transfer. The Executive Engineer of the respondent authority sent communication dated 14/06/2000, through its Medical Officer, whereby an amount of Rs.70,700/- was ordered to be recovered from the petitioner for unauthorized occupation of the premises in question.

2.3 The Executive Engineer of the respondent authority filed an application before the Deputy Collector (Eviction) for eviction of the premises in question. The said application was disposed of by the Deputy Collector (Eviction) by order dated 23/01/2001. The Deputy Collector (Eviction) by order dated 03/05/2001 issued Notice to the petitioner and directed the petitioner to deposit an amount of Rs.65,900/- within a period of thirty days from the date of receipt of the said Notice issued to him.

2.4 Feeling aggrieved by the aforesaid orders, the petitioner preferred appeal being Eviction Appeal No.30 of 2001 before the Court of the learned Addl. Sessions Judge, Gandhinagar. The said appeal was rejected by order dated 26/08/2004. Hence, this petition.

3. I have heard learned counsel for the parties and have perused the relevant documents on record. Respondent no.1, though served, has not appeared before this Court. From the documents placed on record, it clearly transpires that the petitioner herein was in possession of the premises in question. Hence, in the interest of justice, it would be appropriate if the respondent authority grants installments to the petitioner for the recovery of the said amount of Rs.65,900/- (Rupees Sixty five thousand nine hundred only).

4. Accordingly, Respondent no.1 - District Development Officer, is directed to recover an amount of Rs.2,200/- (Rupees Two thousand two hundred only) every month, for thirty consecutive months, from the salary of

the petitioner towards full and final recovery of the aforesaid amount. With the above direction, the petition stands disposed of.

(K. S. Jhaveri, J)

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